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May 15, 2009

Thomas S. Burack, Chairman
NH Site Evaluation Committee
c/o NH Department of Environmental Services
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

Re: Docket No. 2009-01 – Merrimack Station (90033-0001)

Dear Chairman Burack:

I am writing to you on behalf of the Moving Parties in the above-captioned docket. I recently received a letter from you dated May 12, 2009 in your capacity as Chairman of the NH Site Evaluation Committee in the above-captioned docket concerning expenses for the Committee's legal counsel. You asked that we make payment directly to Attorney Iacopino for his invoices in connection with this docket. The Moving Parties acknowledge the need for the Committee to have legal counsel and support Attorney Iacopino's involvement in this matter. However, to the extent that your letter suggests that the Moving Parties must bear the entire cost of the Committee's legal counsel, we respectfully object.

There is no authority in governing statutes or rules for the Committee to charge legal costs to parties other than "applicants". In particular, RSA 162-H:10,V authorizes the Committee to hire legal counsel but expressly states that such cost "shall be borne by the applicant". The Committee's rules at Site 102.03, define "applicant" as "any person seeking to construct and operate any energy, renewable energy or bulk power supply facility within this state." This definition is consistent with how the term is used in RSA 162-H and how it has historically been used by the Committee. In this docket, the only party that would fit the definition of "applicant" is PSNH, as it is Merrimack Station construction activities that are at issue. We, therefore, do not believe that it is appropriate or within the Committee's authority to assess these costs against parties that submit motions for declaratory ruling, as a general matter, or for the Committee to

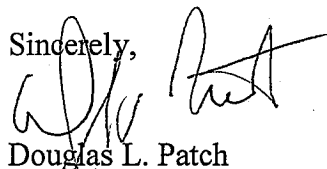
Maureen D. Smith
(Of Counsel)

Thomas S. Burack, Chairman
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request payment of fees by the Moving Parties in this docket. We also believe that such an interpretation would have a chilling effect on the filing of such motions by parties other than energy facilities that may seek to avoid Committee review, thereby defeating one of the purposes of the declaratory ruling provisions. We, therefore, ask the Committee to withdraw its request for payment of legal costs by the Moving Parties.

Thank you for your assistance and cooperation. Please let us know if you have any questions.

Sincerely,



Douglas L. Patch

cc. Chris Allwarden
Barry Needleman
Michael J. Iacopino

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